

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

SCOTT R. HEMINGWAY,

Plaintiff,

-against-

5:04-CV-1342  
(LEK/DEP)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on February 20, 2007, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(d) of the Northern District of New York. Report-Rec. (Dkt. No. 12).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Peebles's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 12) is **APPROVED** and  
**ADOPTED** in its **ENTIRETY**; and it is further

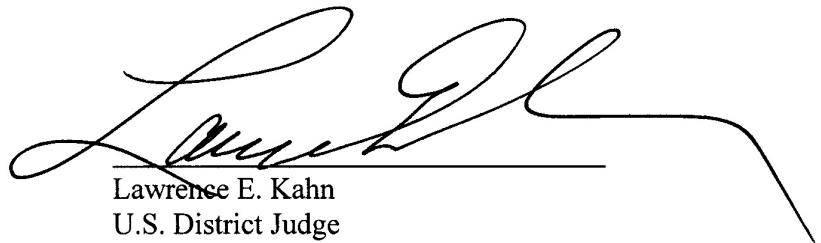
**ORDERED**, that Plaintiff's Motion for judgment on the pleadings is **GRANTED**; and it is further

**ORDERED**, that the Commissioner's determination of no disability is **VACATED** and the matter is **REMANDED** to the agency for further proceedings; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: March 29, 2007  
Albany, New York



The image shows a handwritten signature in black ink, appearing to read "Lawrence E. Kahn". Below the signature, the name is printed in a standard font: "Lawrence E. Kahn" on the first line and "U.S. District Judge" on the second line.

Lawrence E. Kahn  
U.S. District Judge